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8 **BEFORE THE**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **BUREAU OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. VN-2006-567

13 **JENNIFER AGSAULIO**  
aka JENNIFER MARIE AGSAULIO  
14 aka JENNIFER BALLESTEROS AGSAULIO  
14520 S. Village Drive, Apt. 306  
Fontana, CA 92337

**A C C U S A T I O N**

15 Vocational Nurse License No. VN 198115

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this  
21 Accusation solely in her official capacity as the Executive Officer of the Bureau of Vocational  
22 Nursing and Psychiatric Technicians (Bureau), Department of Consumer Affairs.

23 2. On or about January 30, 2002, the Bureau issued Vocational Nurse  
24 License No. VN 198115 to Jennifer Agsaulio (Respondent). The Vocational Nurse License was  
25 in full force and effect at all times relevant to the charges brought herein, and will expire on June  
26 30, 2009, unless renewed.

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## JURISDICTION

3. This Accusation is brought before the Bureau, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Code section 101.1, subdivision (b), states:

(1) In the event that any board, as defined in Section 477, becomes inoperative or is repealed in accordance with the act that added this section, or by subsequent acts, the Department of Consumer Affairs shall succeed to and is vested with all the duties, powers, purposes, responsibilities and jurisdiction not otherwise repealed or made inoperative of that board and its executive officer.

(2) Any provision of existing law that provides for the appointment of board members and specifies the qualifications and tenure of board members shall not be implemented and shall have no force or effect while that board is inoperative or repealed. Every reference to the inoperative or repealed board, as defined in Section 477, shall be deemed to be a reference to the department.

5. Code section 150 states: "The department is under the control of a civil executive officer who is known as the Director of Consumer Affairs."

6. Code section 477 states:

"As used in this division:

(a) "Board" includes "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency."

(b) "License" includes certificate, registration or other means to engage in a business or profession regulated by this code."

## STATUTORY PROVISIONS

7. Section 2875 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

8. Section 118(b) of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under section 2892.1 of the Code, the Board may renew an expired license at any time within four years after the expiration.



1           9.       Section 2878 of the Code states:

2           “The Board may suspend or revoke a license issued under this chapter [the  
3 Vocational Nursing Practice Act (Bus. & Prof. Code, § 2840, et seq.))] for any of the following:

4           “(a) Unprofessional conduct, which includes, but is not limited to, the following:

5           . . . .

6           (d) Violating or attempting to violate, directly or indirectly, or assisting in or  
7 abetting the violating of, or conspiring to violate any provision or term of this chapter [the  
8 Vocational Nursing Practice Act].

9           . . . .

10          (f) Conviction of a crime substantially related to the qualifications, functions, and  
11 duties of a licensed vocational nurse, in which event the record of the conviction shall be  
12 conclusive evidence of the conviction.”

13          10.       Section 2878.5 of the Code states:

14          “In addition to other acts constituting unprofessional conduct within the meaning  
15 of this chapter, it is unprofessional conduct for a person licensed under this chapter to do any of  
16 the following:

17          (a) Obtain or possess in violation of law, or prescribe, or except as directed by a  
18 licensed physician and surgeon, dentist or podiatrist administer to himself or herself or furnish or  
19 administer to another, any controlled substance as defined in Division 10 of the Health and  
20 Safety Code, or any dangerous drug as defined in Section 4022.

21          (b) Use any controlled substance as defined in Division 10 of the Health and  
22 Safety Code, or any dangerous drug as defined in Section 4022, or alcoholic beverages, to an  
23 extent or in a manner dangerous or injurious to himself or herself, any other person, or the public,  
24 or to the extent that the use impairs his or her ability to conduct with safety to the public the  
25 practice authorized by his or her license.

26          . . . .

27          (e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries  
28 in any hospital, patient, or other record pertaining to narcotics or dangerous drugs as specified in

1 subdivision (b).”

2           11.     Section 490 of the Code provides, in pertinent part, that the Board may  
3 suspend or revoke a license when it finds that the licensee has been convicted of a crime  
4 substantially related to the qualifications, functions or duties of a licensed vocational nurse.

5           12.     California Code of Regulations, title 16, section 2521 states:

6           “For the purposes of denial, suspension, or revocation of a license pursuant to  
7 Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or  
8 act shall be considered to be substantially related to the qualifications, functions or duties  
9 of a licensed vocational nurse if to a substantial degree it evidences present or potential unfitness  
10 of a licensed vocational nurse to perform the functions authorized by his license in a manner  
11 consistent with the public health, safety, or welfare. Such crimes or acts shall include but not be  
12 limited to those involving the following:

13                     ....

14           (c) Violating or attempting to violate, directly or indirectly, or assisting in or  
15 abetting the violation of, or conspiring to violate any provision or term of Chapter 6.5, Division 2  
16 of the Business and Professions Code.

17                     ....

18           (f) Any crime or act involving the sale, gift, administration, or furnishing of  
19 "narcotics or dangerous drugs or dangerous devices" as defined in Section 4022 of the Business  
20 and Professions Code.”

21           13.     California Code of Regulations, title 16, section 2518.6, subdivision (b)(4)  
22 and (c) states:

23                     ....

24           “(b) A licensed vocational nurse shall adhere to standards of the profession and  
25 shall incorporate ethical and behavioral standards of professional practice which include but are  
26 not limited to the following:

27                     ....

28                     (4) Abstaining from chemical/substance abuse.



1 (c) A violation of this section constitutes unprofessional conduct for purposes of  
2 initiating disciplinary action.”

3 14. Section 125.3 of the Code provides, in pertinent part, that the Board may  
4 request the administrative law judge to direct a licensee found to have committed a violation or  
5 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
6 and enforcement of the case.

7 **FIRST CAUSE FOR DISCIPLINE**

8 *(Conviction of Substantially Related Crimes)*

9 15. Respondent is subject to disciplinary action under sections 2878,  
10 subdivision (f) and 490 of the Code, in conjunction with California Code of Regulations, title 16,  
11 section 2521, in that Respondent has been convicted of a crime substantially related to the  
12 qualifications, functions or duties of a licensed vocational nurse, as follows:

13 A. On or about August 14, 2003, Respondent was convicted by the court on  
14 her guilty plea to violating one count of Vehicle Code section 23152(d), a misdemeanor (driving  
15 while having a 0.08% or higher blood alcohol content), in the Superior Court of the State of  
16 California, County of Ventura, Case No. 2002023807MA, entitled *People v. Jennifer Agsaulio*.

17 (1) The circumstances surrounding the conviction are that on or about July  
18 14, 2002, Respondent was arrested for driving while having a 0.08% or higher blood alcohol  
19 content. Respondent was sentenced to 5 days in the Ventura County jail and assigned formal  
20 probation.

21 B. On or about June 2, 2003, Respondent was convicted by the court on her  
22 plea of guilty to violating one count of Vehicle Code section 14601.5(a), a misdemeanor (driving  
23 when privilege suspended or revoked for driving under the influence with excessive blood  
24 alcohol), in the Superior Court of the State of California, County of Orange, Case No.  
25 03NM03973A, entitled *People v. Jennifer Agsaulio*.

26 (1) The circumstances surrounding the conviction are that on or about March  
27 21, 2003, Respondent willfully and unlawfully drove a vehicle while her driving privilege was  
28 suspended or revoked for her prior conviction for driving under the influence with excessive

1 blood alcohol. Respondent was placed on 3 years formal probation and ordered to pay fines.

2 (2) On or about December 17, 2003, Respondent's probation was revoked for  
3 failure to pay fines of one thousand sixteen dollars (\$1,016.00). Respondent began making  
4 payments.

5 (3) On or about March 20, 2007, Respondent's probation was revoked again  
6 for failure to pay fines as ordered, and a bench warrant has been issued for Respondent's arrest  
7 and mandatory appearance before the court.

## 8 SECOND CAUSE FOR DISCIPLINE

9 *(Unprofessional Conduct - Dangerous Use of Alcohol)*

10 16. Respondent is subject to disciplinary action under section 2878,  
11 subdivision (a) of the Code, for unprofessional conduct, as defined in section 2878.5, subdivision  
12 (b), in that on or about July 14, 2002, Respondent used an alcoholic beverage to an extent or in a  
13 manner dangerous or injurious to herself, and the public, when she operated a vehicle while  
14 under the influence of an alcoholic beverage, as more fully set forth in paragraph 15 above.

## 15 THIRD CAUSE FOR DISCIPLINE

16 *(Conviction Involving the Consumption of Alcohol)*

17 17. Respondent is subject to disciplinary action under section 2878,  
18 subdivision (a) of the Code, for unprofessional conduct, as defined in section 2878.5, subdivision  
19 (c), in that on or about June 2, 2003, Respondent was convicted of a crime involving the  
20 consumption of an alcoholic beverage, as more fully set forth in paragraph 15 above.

## 21 FOURTH CAUSE FOR DISCIPLINE

22 *(Unprofessional Conduct - Illegal Possession, Prescribing, and Self-Administration of Drugs)*

23 18. Respondent is subject to disciplinary action under section 2878,  
24 subdivision (a) of the Code, for unprofessional conduct, as defined in section 2878.5, subdivision  
25 (a), in that Respondent admitted to the Director of Staff Development at HealthBridge Children's  
26 Hospital in Fontana where she was employed, that she had substance abuse problems, and that  
27 she stole medication from the hospital for her own personal use. On or about June 8, 2006, and  
28 June 14, 2006, while employed as a licensed vocational nurse at HealthBridge Children's



1 Hospital, Respondent ordered the controlled substance Vicodin from the hospital pharmacy for a  
2 patient who had already been discharged, and then diverted the drug for her own personal use.

3 **FIFTH CAUSE FOR DISCIPLINE**

4 *(Unprofessional Conduct - Illegal Possession, Prescribing, and Self- Administration of Drugs)*

5 19. Respondent is subject to disciplinary action under section 2878,  
6 subdivision (a) of the Code, for unprofessional conduct, as defined in section 2878.5, subdivision  
7 (a), in that Respondent on or about August 28, 2006, while employed as a licensed vocational  
8 nurse at HealthBridge Children's Hospital, Respondent's urine sample tested positive for  
9 cannabinoids in a random drug test. Respondent was terminated on September 7, 2006.

10 **SIXTH CAUSE FOR DISCIPLINE**

11 *(Unprofessional Conduct - Illegal Use of Drugs Posing Danger to Public and Impair Practice)*

12 20. Respondent is subject to disciplinary action under section 2878,  
13 subdivision (a) of the Code, for unprofessional conduct, as defined in section 2878.5, subdivision  
14 (b), in that Respondent illegally used drugs posing a danger to the public and/or impairing her  
15 ability to practice as set forth in paragraphs 18 and 19 above.

16 **SEVENTH CAUSE FOR DISCIPLINE**

17 *(Unprofessional Conduct - Falsify, Make Incorrect, Inconsistent*  
18 *or Unintelligible Entries Re: Drugs)*

19 21. Respondent is subject to disciplinary action under section 2878,  
20 subdivision (a) of the Code, for unprofessional conduct, as defined in section 2878.5, subdivision  
21 (e), in that Respondent falsified, made incorrect, inconsistent or unintelligible entries regarding  
22 drugs when she ordered Vicodin from the pharmacy at HealthBridge Children's Hospital where  
23 she was employed in the name of a patient who had already been discharged from the hospital so  
24 that she could take delivery of the drugs and divert it for her own use as set forth in paragraph 18  
25 above.

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1 **EIGHTH CAUSE FOR DISCIPLINE**

2 *(Commission of Acts Substantially Related to the Qualifications, Functions*  
3 *and Duties of the License)*

4 22. Respondent is subject to disciplinary action under section 2878,  
5 subdivision (a) of the Code, for unprofessional conduct, in conjunction with California Code of  
6 Regulations title 16, section 2521 (c) and (f), in that Respondent committed acts which are  
7 substantially related to the qualifications, functions and duties of her license as set forth in  
8 paragraphs 18 and 19 above.

9 **NINTH CAUSE FOR DISCIPLINE**

10 *(Unprofessional Conduct - Violation of Standard of the Profession)*

11 23. Respondent is subject to disciplinary action under section 2878,  
12 subdivision (a) of the Code, for unprofessional conduct, in conjunction with California Code of  
13 regulations title 16, section 2518.6(b)(4) and (c) in that she failed to abstain from chemical  
14 and/or alcohol abuse as set forth in paragraphs 15, 18 and 19 above.

15 **PRAYER**


16 *WHEREFORE*, Complainant requests that a hearing be held on the matters herein  
17 alleged, and that following the hearing, the Director of Consumer Affairs issue a decision:

18 1. Revoking or suspending Vocational Nurse License No. VN 198115, issued  
19 to Jennifer Agsaulio, also known as, Jennifer Marie Agsaulio, and Jennifer Ballesteros Agsaulio;.

20 2. Ordering Jennifer Agsaulio to pay the Bureau the reasonable costs of the  
21 investigation and enforcement of this case, pursuant to Business and Professions Code section  
22 125.3; and

23 3. Taking such other and further action as deemed necessary and proper.

24 DATED: September 5, 2008

25   
26 TERESA BELLO-JONES, J.D., M.S.N., R.N.  
27 Executive Officer  
28 Bureau of Vocational Nursing and Psychiatric Technicians  
State of California  
Complainant